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PUC DOCKET NO. 52758**

PETITION OF McALLEN PUBLIC UTILITY APPEALING WHOLESALE WATER RATES CHARGED BY HIDALGO COUNTY WATER IMPROVEMENT DISTRICT NO. 3 IN HIDALGO COUNTY, TEXAS	§ § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**HIDALGO COUNTY WATER IMPROVEMENT DISTRICT NO. 3’S
MOTION TO COMPEL**

A party should not be permitted to initiate a proceeding and then opt out of discovery. But the City of McAllen (“*McAllen*”) has done just that, refusing to answer any discovery requests pending disposition of its motions to remand and abate.¹ As such, Hidalgo County Water Improvement District No. 3 (the “*Water Improvement District*”) is filing this motion to compel in order to address an abuse of the discovery process. This response is timely filed.²

I. BACKGROUND

On October 27, 2021, McAllen filed a petition appealing the Water Improvement District’s wholesale water rate increase.³ On March 25, 2022, the Water Improvement District served its first set of discovery requests on McAllen.⁴ Although McAllen’s responses were due on April 14, 2022, the Water Improvement District agreed to extend McAllen’s deadline to April 21, 2022. In

¹ *Petition of McAllen Public Utility Appealing Wholesale Water Rates Charged by Hidalgo County Water Improvement District No. 3*, McAllen Public Utility’s Response to Hidalgo County Water Improvement District No. 3 First Request For Information (Apr. 21, 2022) (“McAllen Response”).

² Pursuant to the Rule 11 agreement filed by the parties on March 17, 2022, the “deadline for motions to compel shall be 10 calendar days from the filing of responses and objections to the discovery request.” The Water Improvement District received McAllen’s responses and objections to the relevant discovery requests on April 21, 2022, making the Water Improvement District’s motion to compel due by May 1, 2022.

³ *Petition of McAllen Public Utility Appealing Wholesale Water Rates Charged by Hidalgo County Water Improvement District No. 3*, (Oct. 27, 2021) (“Original Petition”).

⁴ *Petition of McAllen Public Utility Appealing Wholesale Water Rates Charged by Hidalgo County Water Improvement District No. 3*, Hidalgo County Water Improvement District No. 3 First Request for Information to City of McAllen Public Utility (Mar. 25, 2022).

the meantime, McAllen filed a motion to remand⁵ and a motion to abate the proceeding.⁶ On April 21, 2022, McAllen refused to substantively respond to a single one of the Water Improvement District's discovery requests, only responding: "McAllen will supplement this response, if necessary, after disposition of MPU's pending motions for remand and abatement."⁷

II. MOTION TO COMPEL

A. McAllen's Refusal to Respond to the Water Improvement District's Discovery Requests is an Abuse of The Discovery Process.

McAllen initiated this proceeding but has opted out of responding to discovery requests. McAllen's resisting discovery is an abuse of the discovery process.⁸

McAllen initiated this case. It served over 100 discovery requests on the Water Improvement District on March 10, 2022, to which the Water Improvement District timely responded on March 30, 2022.⁹ The Water Improvement District served 33 discovery requests on McAllen on March 25, 2022.¹⁰ McAllen's deadline to respond was April 14, 2022, but the Water Improvement District agreed to extend McAllen's deadline to April 21, 2022.¹¹ McAllen represented that this additional time "should allow us to provide a more comprehensive response

⁵ *Petition of McAllen Public Utility Appealing Wholesale Water Rates Charged by Hidalgo County Water Improvement District No. 3*, Motion for Remand and Alternative Request for Certified Issue (Apr. 19, 2022). ("Motion for Remand");

⁶ *Petition of McAllen Public Utility Appealing Wholesale Water Rates Charged by Hidalgo County Water Improvement District No. 3*, Motion to Abate (Apr. 21, 2022) ("Motion to Abate").

⁷ McAllen Response at 2-10 (Apr. 21, 2022).

⁸ 16 TAC § 22.161(b)(2) (abuse of the discovery process, including "resisting discovery," is cause for imposition of sanctions).

⁹ *Petition of McAllen Public Utility Appealing Wholesale Water Rates Charged by Hidalgo County Water Improvement District No. 3*, Hidalgo County Water Improvement District No. 3's Response to McAllen Public Utility's First Requests for Information and First Requests for Admission (Mar. 30, 2022). The Water Improvement District supplemented its discovery responses on April 1, 2022. *Petition of McAllen Public Utility Appealing Wholesale Water Rates Charged by Hidalgo County Water Improvement District No. 3*, Hidalgo County Water Improvement District No. 3's Supplemental Response to McAllen Public Utility's First Requests for Information and First Requests for Admission (Apr. 1, 2022).

¹⁰ *Petition of McAllen Public Utility Appealing Wholesale Water Rates Charged by Hidalgo County Water Improvement District No. 3*, Hidalgo County Water Improvement District No. 3 First Request for Information to City of McAllen Public Utility (Mar. 25, 2022).

¹¹ *Petition of McAllen Public Utility Appealing Wholesale Water Rates Charged by Hidalgo County Water Improvement District No. 3*, Rule 11 Agreement for Extension of Discovery Deadline (Apr. 14, 2022).

to what the District is seeking.”¹² But McAllen didn’t substantively respond—at all—and instead pledged to “supplement” all of its non-responses only “after disposition of MPU’s pending motions for remand and abatement.”¹³

Neither the Commission’s rules nor the Texas Rules of Civil Procedure permit a party to unilaterally refuse to participate in the discovery process simply because it has motions that are pending. The Commission’s procedural rules require that “[t]he party upon whom a request is served shall serve a full written response to the request.”¹⁴ In addition to the Commission’s rules, the Texas Rules of Civil Procedure require that a party responding to discovery “make a complete response based on all information reasonably available to the responding party or its attorney at the time the response is made.”¹⁵ Parties may postpone responding to discovery requests only upon the timely filing of an objection.¹⁶ But even when objecting to written discovery, a party should “comply with as much of the request to which the party has made no objection.”¹⁷

The ALJs may deny a party the right to continue discovery upon finding that the party abused the discovery process.¹⁸ The Commission has altogether excluded testimony for failure to produce documents requested during discovery, a ruling that has been upheld on appeal.¹⁹ It has also determined that the probative value and credibility of testimony given after a party fails to timely provide adequate discovery responses can be so severely diminished as to deprive the party of its ability to meet its burden of proof altogether.²⁰ Moreover, an ALJ has held that failure to submit required discovery responses may result in the imposition of sanctions.²¹ In proceedings

¹² See Attachment A to this pleading.

¹³ McAllen Response, RFI 1-1 through 1-33.

¹⁴ 16 TAC § 22.144(c)(1).

¹⁵ Tex. R. Civ. P. § 193.1.

¹⁶ 16 Tex. Admin. Code § 22.144(d)(4).

¹⁷ Tex. R. Civ. P. § 193.2(b).

¹⁸ 16 TAC § 22.142(b) (“The presiding officer may deny a party the right to continue discovery, by order, upon proof and a finding that the party abused the discovery process.”).

¹⁹ See *AEP Tex. Cent. Co. v. Pub. Util. Comm’n*, 258 S.W.3d 272, 298-99 (Tex. App.—Austin June 27, 2008, pet. granted), *rev’d in part on other grounds* 345 S.W.3d 60 (Tex. 2011).

²⁰ *Application of Central Power and Light Company for Authorization to Change Rates*, Docket No. 14965, Proposal for Decision at 5-6 (August 6, 1997).

²¹ *Petition of Public Utility Commission Of Texas (Staff) to Inquire Into the Reasonableness of the Rates and Services of Cap Rock Energy Corporation*, Docket No. 28813, Order No. 20 (Jul. 22, 2004).

before other agencies, ALJs have sanctioned parties who refuse to timely respond to discovery requests by striking testimony or precluding a party's participation in the hearing entirely.²²

The Water Improvement District is not requesting sanctions at this time, but it is reserving the right to do so if McAllen continues to refuse to participate in discovery in good faith. With respect to the 12 discovery requests to which the Water Improvement District did not object,²³ the ALJs should compel McAllen to respond immediately. With respect to the others, the ALJs should overrule McAllen's objections and compel McAllen to respond.

B. The ALJs Should Overrule McAllen's Objections

McAllen objected to 21 of the Water Improvement District's 33 discovery requests. For the reasons expressed below, the ALJs should overrule these objections.

1. The Water Improvement District's Requests for Information are Reasonably Calculated and Relevant to this Proceeding.

Of the four public interest criteria, the second asks whether the protested rate impairs McAllen's ability to continue to provide service to its retail customers, based on McAllen's financial integrity and operational capability.²⁴ McAllen objected to 18 of the Water Improvement District's discovery requests pertaining to this second criterion as "outside the scope" of the public interest proceeding.²⁵ The basis for McAllen's objection is that "neither MPU nor any other party has alleged that MPU's internal practices related to financial management of MPU's provision of retail water or sewer service has any relevance to the issues presented in MPU's Original Petition or the Commission's Preliminary Order."²⁶ In other words, McAllen believes that it has

²² *Tex. Dep't of Licensing & Regulation v. Merlin Transp., Inc.*, SOAH Docket No. 452-1-3330.TOW, Proposal for Decision at 4 (Feb. 19, 2016) (A party that had propounded discovery on another sought sanctions arguing that the responding party obstructed the discovery process by failing to articulate a specific good-faith basis for objecting to standard discovery requests and abused the discovery process by withholding documents under the guise of numerous unwarranted claims of privilege. The SOAH ALJ determined that the respondent's refusal to respond to discovery requests demonstrated "flagrant bad faith and callous disregard of the discovery rules"); *see also Application of U.S. Ecology Texas, Inc. for a Class 3 Modification to its Permit and Compliance Plan for a Commercial Hazardous and Non-Hazardous Industrial Solid Waste Management Facility in Nueces County, Texas*, SOAH Docket No. 582-09-1971, Proposal for Decision at 2 (Sept. 22, 2009).

²³ McAllen filed no objections to RFIs 1-3, 1-4, 1-8, 1-10, 1-11(1-3), 1-24, 1-25, 1-26, 1-28, 1-29, 1-30, 1-32, and 1-33.

²⁴ 16 TAC § 24.311(a)(2).

²⁵ McAllen objected to Water Improvement District RFIs 1-1, 1-2, 1-5, 1-6, 1-7, 1-12, 1-13, 1-14, 1-15, 1-16, 1-17, 1-18, 1-19, 1-20, 1-21, 1-22, 1-23, and 1-27.

²⁶ *Petition of McAllen Public Utility Appealing Wholesale Water Rates Charged by Hidalgo County Water Improvement District No. 3*, McAllen Public Utility's Objections to Hidalgo County Water Improvement District No.

unilaterally made the second criterion of the public interest test irrelevant because it did not plead that criterion in its petition.

McAllen's allegations in its petition do not scope what is relevant in a public interest proceeding or how the Water Improvement District may defend its rates against McAllen's claims. The Commission's preliminary order scopes the relevant issues. McAllen is incorrect that these RFIs do not relate to issues presented in the preliminary order. The Commission in its preliminary order listed issues "to be addressed," including one mirroring the second criterion of the public interest test: "Do the rates appealed impair McAllen's ability to continue to provide service to its retail customers, based on McAllen's financial integrity and operational capability?"²⁷ The RFIs McAllen objects to are tailored to seek information relevant to McAllen's financial integrity and operational capability and whether the Water Improvement District's rate impairs McAllen's ability to provide service to its retail customers. The extent to which McAllen utilizes other sources of water, the rates it pays for that water compared to the protested rate, the extent to which McAllen has made attempts to seek out other water providers, and McAllen's overall financial integrity and operational capabilities bear on the Commission determining whether the protested rate impairs McAllen's ability to continue to provide service to its customers—all of which is reasonably calculated to lead to the discovery of evidence on the second criterion of the public interest test and the preliminary order governing this proceeding. In addition, these RFIs are reasonably calculated to lead to the discovery of evidence on multiple factors in the third criterion of the public interest test, as memorialized in the Commission's preliminary order,²⁸ including on McAllen's "alternative means" and "alternative costs" of obtaining water service,²⁹ the rates charged in Texas by other wholesale water suppliers,³⁰ and the retail rates McAllen charges "as a result of the wholesale rate" that the Water Improvement District charges McAllen.³¹

3 First Request For Information at 1 (Apr. 21, 2022) ("Objections"); *see id.* at 2 ("[T]he sole basis for MPU's claim that the protested rate adversely affects the public interest is that the rate evidences an abuse of monopoly power.").

²⁷ *Petition of McAllen Public Utility Appealing Wholesale Water Rates Charged by Hidalgo County Water Improvement District No. 3*, Preliminary Order at 2, Issue 4(e) (Feb. 11, 2022) ("Preliminary Order").

²⁸ Preliminary Order, Issues 4(f).

²⁹ 16 Tex. Admin. Code § 24.311(a)(3)(A).

³⁰ 16 Tex. Admin. Code § 24.311(a)(3)(G).

³¹ 16 Tex. Admin. Code § 24.311(a)(3)(H).

On similar grounds, McAllen objected to an additional two discovery requests as not “relate[d] to the subject matter of this action.”³² These questions seek information on rates charged by another of McAllen’s wholesale water suppliers, the Brownsville Irrigation District. McAllen has contracted with the Brownsville Irrigation District for the supply of water.³³ The rate charged in Texas by other wholesale water providers is among the factors in the third criterion of the public interest test.³⁴ The Commission also listed it as an issue to be addressed in the preliminary order.³⁵ And McAllen has largely based its appeal on a comparison of the Water Improvement District’s rates to rates charged by its other water providers.³⁶ The discovery questions to which McAllen objects are relevant because they are designed to obtain information related to what other sources of water are available to McAllen (which relates to disparate bargaining power under the public interest test³⁷) and the rates it pays for water from those sources (which relates to the abuse of monopoly power criterion in the public interest test)—and both of these issues are memorialized in the public interest rule and by the Commission in the preliminary order as issues to be addressed in this case.

2. RFI 1-31 is Sufficiently Tailored to Seek Relevant Evidence in this Proceeding.

McAllen objects to RFI 1-31 as overbroad. RFI 1-31 reads as follows:

Water Improvement District 1-31: Refer to Page 86 of McAllen’s Petition. Produce the comparative rate study, produce all documents and correspondence regarding same, and produce all documents and correspondence (including contracts) related to wholesale water rates charged by water providers in the Lower Rio Grande Valley.

³² Objections at 2, RFI 1-9 and RFI 1-11.4

³³ *Petition of McAllen Public Utility Appealing Wholesale Water Rates Charged by Hidalgo County Water Improvement District No. 3*, Hidalgo County Water Improvement District No. 3’s Response to Petition at 52 (Agreement Between Brownsville Irrigation District and McAllen Public Utilities for the Lease of Water Rights) (Nov. 19, 2021).

³⁴ 16 TAC § 24.311(a)(3)(G) (The commission shall determine the protested rate adversely affects the public interest if after the evidentiary hearing on public interest the commission concludes at least one of the following public interest criteria have been violated...the protested rate evidences the seller’s abuse of monopoly power in its provision of water or sewer service to the purchaser. In making this inquiry, the commission shall weigh all relevant factors. The factors may include:...the rates charged in Texas by other sellers of water or sewer service for resale).

³⁵ Preliminary Order at 3, Issue 4(f)(vii).

³⁶ Original Petition at 14 (“In this case, the most relevant of the listed factors are (A) MPU’s alternative costs of obtaining alternative water service from the other three supply districts, (B) HCWID 3’s failure to reasonably demonstrate the changed conditions that are the basis for its changes in rates, and (G) the rates charged by other sellers of water service for resale.”) (emphasis added).

³⁷ 16 TAC § 24.311(a)(3)(A); *see also* Preliminary Order at 3, Issue 4(f)(i).

With its Original Petition, McAllen at Page 86 included an affidavit from Marco Vega, the general manager of the McAllen Public Utility.³⁸ In that affidavit, Mr. Vega references “a recent Comparative Rate Study conducted by NewGen Strategies and Solutions at MPU’s request. An affidavit from NewGen’s CFO and rate analyst, Chris Ekrut, is included as an exhibit to the Petition.”³⁹ Mr. Vega testified that his understanding that the Water Improvement District’s rates are higher than other “similar districts” in the “Lower Rio Grande Valley” is based on this “recent” rate study.⁴⁰ McAllen’s objection to this RFI is that it “is not limited to any specified period of time.”⁴¹

When a party objects to written discovery, the party should “comply with as much of the request to which the party has made no objection.”⁴² Therefore, while McAllen has objected to the production of associated documents and correspondence regarding the comparative rate study, it is obligated under the rules to produce the study itself as it did not object to that portion of the request.⁴³ The study is a “recent” one and was introduced into this proceeding by McAllen as evidence of the Water Improvement District’s alleged abuse of monopoly power under the third criterion of the public interest test.⁴⁴ A primary basis of McAllen’s claims is a comparison of rates charged by its various water suppliers.⁴⁵ There is no basis to object to production of its rate comparison study on the grounds raised by McAllen. But McAllen has refused to produce the study altogether. And as the Water Improvement District has no means of determining how far back communications and correspondence related to the study might go, the Water Improvement

³⁸ Original Petition at 83-87.

³⁹ *Id.* at 86 (emphasis added).

⁴⁰ *Id.* (“[A]s of September 1, 2021, HCWID 3 charges MPU a rate that is 56 to 122 percent higher than rate charged by similar districts for essentially the identical service to MPU and other municipal retail utilities in the Lower Rio Grande Valley. I understand that to be the case based on a recent Comparative Rate Study conducted by NewGen Strategies and Solutions at MPU’s request.”).

⁴¹ Objections at 2 (“The RFI requests production of ‘all documents and correspondence (including contracts) related to wholesale water rates charged by water providers in the Lower Rio Grande Valley.’ The request is not limited to any specified period of time. MPU objects to RFI 1-31 on those grounds.”).

⁴² Tex. R. Civ. P. § 193.2(b).

⁴³ *Id.*

⁴⁴ Objections at 2 (“[T]he sole basis for MPU’s claim that the protested rate adversely affects the public interest is that the rate evidences an abuse of monopoly power.”); *see also* Original Petition at 3 (rate comparisons).

⁴⁵ *See, e.g.*, Original Petition at 3 (rate comparisons).

District relied on McAllen's statement that the comparative rate study was "recent." Any correspondence would therefore be recent and easily obtained and produced by McAllen.

Separately, McAllen objects to RFI 1-31 on the theory that the question requests rate study information relating to expert opinion, and that discovery of expert opinions is available only through depositions and Rule 195.5 of the Texas Rules of Civil Procedure.⁴⁶ The rate study was referenced in the affidavit of McAllen's general manager attached to the petition initiating this case, so that study is discoverable in response to an RFI. Even if that were not the case, the Water Improvement District did request in RFI 1-28 that McAllen file Rule 195.5 disclosures.⁴⁷ McAllen did not object to RFI 1-28, yet refused to respond to it. That a party would initiate a proceeding and then refuse to respond to requests for Rule 195.5 disclosures is an abuse of the discovery process.

3. RFI 1-12 and 1-23 are Sufficiently Tailored to Allow McAllen to Respond.

McAllen objected to RFI 1-12 as "unreasonably vague." RFI 1-12 reads as follows:

Water Improvement District 1-12: Identify all greywater customers of McAllen, and provide all documents and correspondence regarding same.

McAllen alleges that this RFI is unreasonably vague because the term "greywater customers" is not defined.⁴⁸ However, the term "greywater" is not defined because the plain meaning applies. The dictionary definition of "greywater" is "water that has been used before, for example for washing, that can be stored and used again."⁴⁹ There is no rule or statute that requires a term to be defined within the scope of a discovery question when the plain meaning of the word is intended. Consequently, McAllen had sufficient information in its possession to timely respond to this RFI.

McAllen also objected to RFI 1-23 as "unreasonably ambiguous." RFI 1-23 reads as follows:

Water Improvement District 1-23: Provide the "delivery rate" paid by McAllen in order to take delivery of water from a water supply entity not physically connected

⁴⁶ Objections at 3.

⁴⁷ *Petition of McAllen Public Utility Appealing Wholesale Water Rates Charged by Hidalgo County Water Improvement District No. 3*, Hidalgo County Water Improvement District No. 3 First Request for Information to City of McAllen Public Utility at 9 (Mar. 25, 2022).

⁴⁸ Objections at 2.

⁴⁹ Cambridge Dictionary, <https://dictionary.cambridge.org/us/dictionary/english/grey-water> (accessed Apr. 24, 2022).

to McAllen's North or South Plants, identify which water supply entity McAllen has paid such a "delivery rate" to since 2014, and produce all documents regarding same.

McAllen objects to this RFI on the basis that it is "unable to discern which 'water supply entity not connected to McAllen's North or South Plants' the request seeks information about."⁵⁰ It is clear from the RFI that the Water Improvement District seeks the identity of **any and all** water supply entities not physically connected to McAllen's North or South Plants. The question specifically requests that McAllen "identify which water supply entity McAllen has paid such a 'delivery rate' to since 2014," indicating that if McAllen has paid such a delivery charge to a water supply entity that meets the description provided, the identity of the entity and the delivery rate should be produced. McAllen presents comparisons of rates charged by its various water suppliers as a primary reason for its belief that the Water Improvement District's rates harm the public interest.⁵¹ It should not be permitted to withhold related information, such as the information requested in this RFI. Consequently, McAllen had sufficient information in its possession to timely respond to this RFI.

III. CONCLUSION

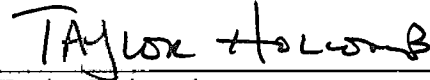
McAllen should not be permitted to initiate a proceeding and then opt out of discovery. The Water Improvement District respectfully requests that McAllen be compelled to immediately answer all of the questions included in the Water Improvement District's first set of RFIs. The Water Improvement District also requests any other relief to which it may be entitled.

⁵⁰ Objections at 3.

⁵¹ See, e.g., Original Petition at 3 (rate comparisons).

Date: April 27, 2022

Respectfully submitted,



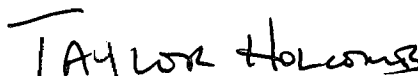
Taylor Holcomb
State Bar No. 24074429
Heath Armstrong
State Bar No. 24105048
JACKSON WALKER LLP
100 Congress Avenue, Suite 1100
Austin, Texas 78701
512-236-2060
512-236-2002 (Fax)
tholcomb@jw.com
harmstrong@jw.com

R.K. Whittington
State Bar No. 21404500
Law Office of Randolph Kimble Whittington
2014 East Harrison Avenue
Harlingen, Texas 78550
956-423-7200
956-423-7999 (Fax)
chagofuentes@rkwlaw.com

Attorneys for the Water Improvement District

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document was served on all parties of record via e-mail, regular mail, hand-delivery, or fax on April 27, 2022.


for Heath Armstrong

ATTACHMENT A

Armstrong, Heath

From: James Aldredge <jaldredge@lglawfirm.com>
Sent: Wednesday, April 13, 2022 3:52 PM
To: Armstrong, Heath
Cc: Holcomb, Taylor
Subject: RE: PUC Docket No. 52758-Follow-up to our Meet and Confer Call [IMAN-JWDOCS.FID4459152]

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Thanks much Heath. My paralegal is gone for the day, so we will file this tomorrow morning. Appreciate your cooperation.

James

From: Armstrong, Heath <harmstrong@jw.com>
Sent: Wednesday, April 13, 2022 3:40 PM
To: James Aldredge <jaldredge@lglawfirm.com>
Cc: Holcomb, Taylor <tholcomb@jw.com>
Subject: RE: PUC Docket No. 52758-Follow-up to our Meet and Confer Call [IMAN-JWDOCS.FID4459152]

James,

Please find attached an executed copy of the Rule 11 letter you sent over. Let me know if there is anything else you need on this.

Heath Armstrong
100 Congress Avenue Suite 1100 | Austin, TX | 78701
V: (512) 236-2098 | F: | harmstrong@jw.com

A dark rectangular banner with a thin white border. Inside, the text 'View Jackson Walker's COVID-19 Insights & Resources' is written in a white, sans-serif font, with a double arrow pointing to the right at the end of the line.

View Jackson Walker's
COVID-19 Insights & Resources»

From: James Aldredge <jaldredge@lglawfirm.com>
Sent: Wednesday, April 13, 2022 8:53 AM
To: Armstrong, Heath <harmstrong@jw.com>
Cc: Holcomb, Taylor <tholcomb@jw.com>
Subject: RE: PUC Docket No. 52758-Follow-up to our Meet and Confer Call [IMAN-JWDOCS.FID4459152]

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Heath, a partially executed agreement letter is attached. The additional week should allow us to provide a more comprehensive response to what the District is seeking. We appreciate your consideration and courtesy.

Thanks,
James

From: Armstrong, Heath <harmstrong@jw.com>
Sent: Tuesday, April 12, 2022 4:43 PM
To: James Aldredge <jaldredge@lglawfirm.com>
Cc: Holcomb, Taylor <tholcomb@jw.com>
Subject: Re: PUC Docket No. 52758-Follow-up to our Meet and Confer Call [IMAN-JWDOCS.FID4459152]

James,

No need for a call, just go ahead and send over the Rule 11 agreement and Taylor and I will review.

Thanks!

On Apr 12, 2022, at 2:32 PM, James Aldredge <jaldredge@lglawfirm.com> wrote:

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Good afternoon Heath. I understand from McAllen that they have had a four separate staff members at MPU working on collecting documents responsive to District 3's requests since we received them. According to MPU, they have so far identified approximately 1,000 individual documents that are responsive to the requests and are continuing to find more. As you and I discussed week before last, MPU intends to be as openly responsive as possible. However, we did not anticipate at that time that this production would be this voluminous. I would like to discuss the possibility of a Rule 11 to allow us a one-week extension of our deadline to serve responses and file objections. Do you have time for a call this afternoon or tomorrow to discuss?

Thanks,
James

From: Armstrong, Heath <harmstrong@jw.com>
Sent: Thursday, March 31, 2022 4:22 PM
To: James Aldredge <jaldredge@lglawfirm.com>
Cc: Holcomb, Taylor <tholcomb@jw.com>
Subject: RE: PUC Docket No. 52758-Follow-up to our Meet and Confer Call [IMAN-JWDOCS.FID4459152]

James,

It appears I will need to be on a call that is scheduled from 9:30-10:30 tomorrow morning. Any chance we could push our meeting back a half hour to start at 10:30? I'll send an alternate time proposal for you to accept if that works. If not, feel free to propose another time that will work.

Thanks in advance and sorry for the confusion.

Heath Armstrong
100 Congress Avenue Suite 1100 | Austin, TX | 78701
V: (512) 236-2098 | F: | harmstrong@jw.com